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Paper No.

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AUG 01 2006

OFFICE OF PETITIONS

In re Application of :
Overton et al. :
Application No. 09/661,222 :
Filed: September 13, 2000 : LETTER REGARDING
Attorney Docket No. 10406/43 : PATENT TERM ADJUSTMENT

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed January 9, 2006, notifying the Office of an error in applicants' favor in the initial determination of patent term adjustment.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is **SIX HUNDRED FORTY-ONE (641)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 14, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 743 days. Applicants state that this may extend the term of this patent by too many days.

A review of the record reveals that the entry of zero days of applicant delay in connection with responding to the non-final Office action mailed February 25, 2004 is incorrect. Applicants' response after non-final was received on August 25, 2004, not February 25, 2004. Thus, the period of reduction is 92 days (not 0 days) for applicants' taking in excess of three

months to file a response to the Office action mailed February 25, 2004. See § 1.704(b).

As the response was filed on August 25, 2004, the IDS filed August 25, 2004 accompanied the response and thus, was not a supplemental paper. As such the reduction pursuant to § 1.704(c)(8) of 182 days is not warranted.

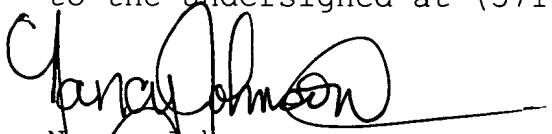
Moreover, as the response after non-final Office action was received on August 25, 2004, the Office's delay in not issuing a response until February 9, 2005 is 46 days (not 229 days). See § 1.703(a)(2).

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is SIX HUNDRED FORTY-ONE (641) days (834 + 46 days of Office delay reduced by 92 + 92 + 55 days of applicant delay).

This letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the \$200.00 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.


Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of revised PAIR screen

PALM INTRANET

Time: 08:25:15

PTA Calculations for Application: 09/661222

Application Filing Date:	09/13/2000	PTO Delay (PTO):	1063
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	329
Post-Issue Petitions:	0	Total PTA (days):	641
PTO Delay Adjustment:	-93		

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EXPLANATION OF PTA CALCULATION

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